

APPEAL NO. 021720
FILED AUGUST 20, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on May 30, 2002, with the record closing on June 7, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the first quarter because the appellant (carrier) waived the right to dispute entitlement to first quarter SIBs; that the claimant is not entitled to SIBs for the second quarter; and that the claimant is entitled to SIBs for the third quarter. The carrier appealed the hearing officer's determinations that the claimant is entitled to SIBs for the first and third quarters. The claimant responded. There is no appeal of the hearing officer's determination that the claimant is not entitled to SIBs for the second quarter.

DECISION

The hearing officer's decision is affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE. § 130.102 (Rule 130.102). The applicable SIBs waiver provisions are in Section 408.147(b) and Rule 130.108(c). With regard to notice to a carrier see Texas Workers' Compensation Commission Advisory 93-11, dated November 4, 1993, and Rule 102.5(d). The issues of the claimant's entitlement to SIBs and whether the carrier waived its right to dispute the claimant's entitlement to first quarter SIBs involved fact issues for the hearing officer to determine from the evidence presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). The hearing officer did not err in denying the carrier's motion for rehearing.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LEGION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Gary L. Kilgore
Appeals Judge